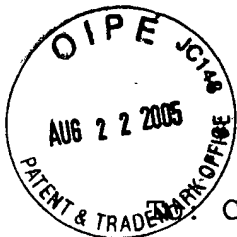


IFW

IME-03-010



August 19, 2005

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Attn: Art Unit 2818 - Dung Anh Le

From: George O. Saile, Reg. No. 19,572

28 Davis Avenue

Poughkeepsie, N. Y., 12603

Subject: | Serial No.: 10/742,120 12/19/03 |

Chi Kiong Terence Gan, et al.

SINGLE-CRYSTAL-SILICON 3D
MICROMIRROR

| _ Art Group: 2818 Dung Anh Le _ |

RESPONSE TO RESTRICTION REQUIREMENT

This is in response to the Restriction or Election Requirement in the Office Action dated 07/19/05. In that Office Action, restriction was required to one of two stated

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on August 19, 2005.

Stephen B. Ackerman, Reg.# 37761

Signature/Date

SBQ 8/19/05

IME-03-010

Inventions under 35 U.S.C. 121. The Inventions stated are Group I - Claims 27-37 to a semiconductor device, classified in Class 257, subclass 079 and Group II - Claims 1-26 to a process, classified in Class 438, subclass 058.

Applicant provisionally elects to be examined the Invention described by the Examiner as Group II - Claims 1-26 drawn to a process classified in Class 438, subclass 058. This election is made with traverse of the requirement under 37 C.F.R.1.143 for the reasons given in the following paragraphs.

The Examiner is respectfully requested to reconsider the Requirement for Restriction given in the Office Action. The Examiner gives the reason for the distinctness of the two inventions as (1) that the process as claimed can be used to make other and materially different products or (2) that the product as claimed can be made by another and materially different process (MPEP 806.05(f)). However, upon reading the product Claims against the process Claims one can readily see that the product Claims are directed to "a three-dimensional free space micromirror device" and the process Claims are directed to "a method of fabricating a silicon mirror device", it is necessary to obtain claims in both the product and method claim language. The method Claims necessarily use the product and vice versa. The field of search must necessarily cover both the method class/subclass 438/058 and products class

257/079 in addition to other related Classes and subclasses to provide a complete and adequate search. The fields of search for the Group I and Group II inventions are clearly and necessarily co-extensive. The Examiner's suggestion that "In the instant case unpatentabilities of the group I invention would not necessarily imply unpatentability of the group II invention, since the device of the group I invention could be made by the processes materially different from those of the group II invention, for example, in the claim 2, the product as claimed can be made by another and materially different process such as a semiconductor formed through the use of a diffusion method instead of implantation", is very speculative and really has nothing to do with the Claims as presented in this Patent Application. Further, it is respectfully suggested that these reasons are insufficient to place the additional cost of a second Patent Application upon the Applicants. Therefore, it is respectfully requested that the Examiner withdraw this restriction requirement for these reasons.

Withdrawal of the Restriction Requirement and the Allowance of the present Patent Application is requested.

Sincerely,

A handwritten signature in black ink, appearing to read 'SBA', with a stylized flourish extending from the end.

Stephen B. Ackerman, Reg. #37761